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Comp.A.No.290 of 2022
in
C.P.No.17 of 2004

SENTHILKUMAR RAMAMOORTHY J.

This application is filed seeking leave of the Court to proceed with O.S.No.59 of 2020, which is pending on the file of the Sub Judge, Mettupalayam.

2. Learned counsel for the applicant submits that the applicant is the owner of the immovable asset described in the schedule to the plaint in O.S.No.59 of 2020. By drawing reference to paragraph-(g) of the plaint, it is asserted that the respondents herein have no right, title or interest in the said property. Therefore, learned counsel contends that it is inequitable to prevent the applicant from prosecuting the suit before the jurisdictional court.

3. In response, the Official Liquidator has filed a report dated 15.10.2022. In the said report, the Official Liquidator has relied upon Section 446 of the Companies Act 1956. Therefore, the Official Liquidator prays for directions for transfer of the suit.



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4. Upon winding up of a company or upon a provisional liquidator being appointed, the Companies Court is entitled to receive and determine all claims against the company-in-liquidation, including by transferring pending proceedings. The rationale for such prescription is to consolidate proceedings relating to the company-in-liquidation so as to enable the Official Liquidator to contest such proceedings before the forum undertaking liquidation. In this case, it is evident that the suit was filed in the year 2020 and appears to be at a preliminary stage. Therefore, no prejudice will be caused if the suit is transferred to the Companies Court.

5. Accordingly, this application is disposed of by directing that O.S.No.59 of 2020, which is pending before the Sub Judge, Mettupalayam, Coimbatore District, be transferred to the file of this Court and listed for hearing after being re-numbered.

11.11.2022

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